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App No : 17/07195/FUL App Type: Full Application
Application for : Demolition of existing bungalow and construction of a two & a half storey block containing 10 flats (6 x 2 bed & 4 x 1 bed) with associated parking and landscaping
At 15 & 17 New Road High Wycombe Buckinghamshire HP12 4LH
Date Received : 23/08/17 Applicant : Mr Ravinder Sehajpal
Target date for Decision 22/11/17

1. **Summary**

1.1. In June 2019 Planning Committee resolved to grant planning permission for the development subject to the provision of 1 affordable dwelling (1 x DMV). The applicant advised that the site would be rendered unviable if affordable housing was provided. The site has been independently viability tested by a Council appointed viability consultant. The viability testing demonstrates that the profit level falls below the 15% figure identified in the PPG as a reasonable return on risk. Therefore it is not considered to be reasonable in this instance to adjust the affordable housing and other requirements to allow the development to come forward. It is considered that there are benefits in terms of housing delivery and place making in allowing this site to come forward at this time.

2. **The Application**

- 2.1. On 26 June 2019 Planning Committee considered an application to demolish an existing bungalow and erect a block of 10 flats. A copy of the report and associated documentation is appended to this addendum report.
- 2.2. The recommendation was to grant planning permission subject to the proposed conditions¹ and completion of a legal agreement. The legal agreement sought to secure 1 of the dwellings as Discount Market value (DMV) in accordance with the provisions of the NPPF. Members voted in favour of the motion to approve the application and the resolution was passed.
- 2.3. Officers duly began the process of entering into a S106 with the developer as instructed. At this point the developer raised the issue of viability and in particular the impact that the delivery of 1 affordable dwelling would have. The applicant submitted a financial viability assessment prepared by 'Affordable Housing 106' and agreed to pay the Council's reasonable costs in reviewing the document. The Council instructed the services of Avison Young, a highly regarded viability consultant, to review the applicant's appraisal.

Policy and Guidance on Viability

Local Plan: DM24 (Affordable Housing)

¹ 19 conditions on the application and one additional levels condition as proposed on the updates sheet.

Planning Obligations SPD

- 2.4. The issue of viability and its relationship with the requirement to provide affordable housing is addressed in the supporting text to policy DM24 (Affordable Housing). The supporting text concludes that whilst the policies in the Local Plan are considered to be generally viable that the specifics of certain sites may render development unviable. If a developer believes that the requirements of the Council's affordable housing policy renders their site unviable, they must provide all the necessary financial evidence to justify their position.
- 2.5. The Council's Planning Obligations SPD also advocates the need for open book assessments.
- 2.6. The current NPPF (February 2019) at para 57 states that it:
- “is up to the Applicant to demonstrate whether particular circumstances justify the need for a viability assessment, at the application stage, and the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case. It further states that ‘all viability assessments should reflect the recommended approach in national planning guidance, including standardised inputs’.
- 2.7. These points are repeated within the Planning Practice Guidance (PPG).
- 2.8. Of particular relevance to this case the PPG also advises ‘For the purpose of plan making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers’. Whilst the current proposal relates to decision making a return of 15-20% is considered to represent a reasonable baseline for developer return.
- 2.9. There is no standard answer to questions of viability, nor is there a single approach for assessing viability. Guidance issued by the Royal Institute of Chartered Surveyors (RICS) - ‘Financial Viability in Planning Professional Guidance Note (1st Edition – GN 94/2012) - provides recommended good practice when assessing financial viability for planning purposes. It is consistent with the NPPF, PPG and Community Infrastructure Levy (CIL) Regulations 2010 (as amended). This approach has been adopted by the Council's viability assessor.
- 2.10. Financial viability for planning purposes is defined by this Guidance as:
- ‘An objective financial viability test of the ability of a development project to meet its costs, including the cost of planning obligations, while ensuring an appropriate site value for the landowner and a market risk adjusted return to the developer in delivering that project’.
- 2.11. The Guidance also states that the accepted method of valuation is the ‘residual method’. This is explained further in the RICS Valuation Information Paper (VIP) 12. In summary this valuation approach recognises that the value of a development scheme is a function of a number of elements. These include:
- The value of the completed development (GDV);
 - The direct costs of developing the scheme (TCC1)
 - The return (profit) to the developer for taking the development risk and delivering the scheme;
 - The cost of any planning obligations; and
 - The cost or value of the land.

- 2.12. The Residual method has been used by both the developer and the Council, albeit the Council did not include developer profit as a fixed cost.

Appraisal Results

- 2.13. The applicant's viability appraisal concluded that at 20% profit the site would make a significant loss. The Council's viability consultant reviewed the financial model used, all projected incomes and costs. The developments financial model and methodology was generally found to be sound. As were the proposed sale values. However, there were a number of discrepancies in respect of costs. In particular:
- a) Demolition costs were considered to be approximately 30% lower.
 - b) Build costs circa 25% higher.
 - c) Professional fees 2% lower.
 - d) Contingency 2% lower.
 - e) CIL lower; and,
 - f) The existing use value was considered to be lower.
 - g) The Council also did not accept that 20% profit was a fixed cost.
- 2.14. Taking the above into account the Council's model was able to demonstrate that the current scheme was viable, but only at a profit level of 14.47% (of GDV). The profit level falls to 11.08% (of DMV) if the DMV and the New Local Plan optional building control standards were imposed. In all events the profit level would fall below the 15% figure identified in the PPG as a reasonable return on risk. Therefore, in summary, whilst in the officers view the scheme is viable (i.e. provides a positive return) the level of profit falls below what is typically considered as the minimum profit necessary for a scheme to proceed (i.e. 15% of GDV as set out in the NPPF). Therefore the scheme cannot reasonably be expected to deliver affordable housing or be subject to optional building control standards in current market conditions without jeopardising its deliverability.
- 2.15. It is worth noting at this point that the key driver of the viability position on this site was the existing use value of the land (i.e. the existing residential use value). Therefore, it is not the case that all small scale development of this nature will be unviable, but rather only sites where significant existing use value exists. Therefore whilst the Council's policies remain generally viable there will be specific cases where they are not.
- 2.16. The question that then arises is whether there are planning benefits justifying the delivery of the site in the current market at the present time. In this instance it is considered that there is justification for bringing the site forward at the present time. This includes:
- a) The current relatively untidy nature of the site.
 - b) The improvement the proposed scheme could make to the character of the area.
 - c) The contribution that the proposal would make to housing delivery on a brownfield site.
 - d) The fall-back position that 9 dwellings could be delivered without any need for affordable housing. We would in effect lose a dwelling and obtain no planning benefit to weigh against that loss.
- 2.17. In view of the above, it is considered that there is planning merit in bringing the site forward at this time.

Other Matters

- 2.18. The application was considered by Planning Committee prior to the adoption of the New Local Plan, but is brought back to you with the New Local Plan now in full force. The policy landscape is therefore significantly altered. However, with regard to this particular

case, where the then emerging New Local Plan was taken into account, the proposal is considered to remain broadly in compliance. For example the National Space Standards, water efficiency standards and provision of micro renewables was all taken into account. The main area of change for this scale of development is the requirement for 35% affordable housing and application of the optional building regulations standards. The latter of which would in all likelihood require a redesign of the scheme. In the circumstances, the issue of viability and deliverability is considered to justify not securing these planning benefits.

RECOMMENDATION: Minded to grant planning permission subject to conditions

It is anticipated that any planning permission would be subject to the following conditions that address the following matters (Detailed wording to be finalised):

Time Limit and Plans

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (As amended).
2. The development hereby permitted shall be built in accordance with the details contained in the planning application hereby approved and plan numbers:
 - a. WDC1 (location plan)
 - b. 17/3454/10 B (dated 14/05/18) – Roof Plan
 - c. 17/3454/11 A (dated 14/05/18) – Floor Plans
 - d. 17/3454/12 A (dated 14/05/18) – Elevations
 - e. 17/3454/13A (dated 18/04/18) – Street Scene/Section
 - f. 17/3454/14 (dated 18/04/18) – Bin and Cycle Store

Reason: in the interest of proper planning and to ensure a satisfactory development of the site.

Appearance

3. Notwithstanding any indication of materials which may have been given in the application, a schedule of the materials and finishes for the development shall be submitted to and approved in writing by the Local Planning Authority before any development takes place. Thereafter, the development shall not be carried out other than in accordance with the approved details.
Reason: to secure a satisfactory external appearance.

Landscaping

4. No development shall take place before a fully detailed landscaping scheme for the site has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include:

- Details of all fencing structures.
- Details of all hard surface treatments.
- A planting specification as illustrated in plan ref: 17/3453/10 A.
- The retention of the area annotated 'Area of Woodland' on plan ref: 17/3454/10 A.

- Tree pit details will be specified. Provision will be made for root expansion beneath hard surfaced areas, using tree root soil cells where trees root expansion areas are confined by hardstanding and/or compacted ground.
- 5 bat and 5 bird boxes to be incorporate on the building and other structures within the site.
- The position of underground services.

The development shall be implemented in accordance with the approved details unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity and to ensure a satisfactory standard of landscaping.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees, plants or areas of turfing or seeding which, within a period of 3 years from the completion of the development, die are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority first gives written consent to any variation.

Reason: In the interests of amenity and to ensure a satisfactory standard of landscaping.

6. Drawings of the site identifying the following shall be submitted to and approved in writing by the Local Planning Authority before any development takes place;
 - a. Existing ground levels on site (spot heights) including a datum point that is located off site. Levels should be Above Ordnance Datum (AOD).
 - b. The level of the road outside the site. (AOD).
 - c. The proposed levels on site following completion of the development (for each existing height a proposed height should be identified).
 - d. The location and type of any retaining structures needed to support ground level changes.
 - e. The Finished Floor Level for every building that is proposed.
 - f. Cross sections within the site taken up to the site boundaries. The information supplied should clearly identify if land levels are being raised or lowered.
 - g. In the case of residential development, sections showing the level of the proposed garden(s) and retaining structures.

The development shall be carried out only in accordance with the approved details.

The levels information should broadly follow the levels information provided as part of the application.

Reason: To ensure that the work is carried out at suitable levels in relation to adjoining properties, highways and in the interests of good design.

Environmental

7. A scheme to protect the proposed development from traffic noise shall be implemented before any part of the accommodation hereby approved is occupied, unless the Local Planning Authority otherwise agrees in writing. The scheme shall ensure the indoor ambient noise levels in living rooms and bedrooms meet the standards in BS 8233:2014 for the appropriate time period. Unless otherwise agreed in writing with the Local Planning Authority it shall be assumed that the existing noise level at the façade of the proposed development is 72dB LAeq16 hour and 66dB LAeq, 8 hour. The scheme shall include mechanical ventilation to meet the requirements of the Noise Insulation Regulations 1975 as amended 1988.

Reason: To protect the occupants of the new development from noise disturbance.

8. Flats 5 and 8 hereby permitted shall not be occupied until the obscure glass privacy screens to the sides of the balconies, indicated on plan ref: 17/3454/12 A (last updated 14/05/18), have been implemented.

Reason: in the interests of the amenities of the neighbouring dwellings.

9. Before the first occupation of the building hereby permitted the following windows:
- a. first floor window in the northern flank elevation of flat 5 (providing a secondary source of light to the kitchen diner);
 - b. first floor window in the southern flank elevation of flat 4 (providing a secondary source of light to the kitchen diner);
 - c. first floor window in the northern elevation of flat 6 (providing a secondary source of light to the living room);
- shall be fitted with obscured glazing and any part of the window that is less than 1.7 metres above the finished floor level of the room shall be non-opening. The window(s) shall be permanently retained in that condition thereafter.

Reason: in the interests of the amenities of the neighbouring dwellings.

Flooding/SUDs

10. No works other than demolition shall begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:
- Demonstrate that water quality, ecological and amenity benefits have been considered.
 - Infiltration in accordance with BRE365.
 - Subject to infiltration being inviable, the applicant shall demonstrate that an alternative means of surface water disposal is practicable subject to the hierarchy listed in the informative below with the relevant permissions.
 - Full construction details of all SuDS and drainage components.
 - Detailed drainage layout with pipe numbers, gradients and pipe sizes complete, together with storage volumes of all SuDS components.
 - Calculations to demonstrate that the proposed drainage system can contain up to the 1 in 30 storm event without flooding. Any on-site flooding between the 1 in 30 and the 1 in 100 plus climate change storm event should be safely contained on site.
 - Details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants, or to adjacent or downstream sites.
 - Flow depth
 - Flow volume
 - Flow velocity
 - Flow direction

Reason: The reason for this pre-construction condition is to ensure that a sustainable drainage strategy has been agreed prior to construction in accordance with Paragraph 163 of the National Planning Policy Framework to ensure that there is a satisfactory solution to managing flood risk.

11. Development shall not begin until a “whole-life” maintenance plan for the site has been submitted to and approved in writing by the Local Planning Authority. The plan shall set out how and when to maintain the full drainage system (e.g. a maintenance schedule for each drainage/SuDS component) during and following construction, with details of who is to be responsible for carrying out the maintenance. The plan shall subsequently be implemented in accordance with the approved details.

Reason: The reason for this being a pre-start condition is to ensure that maintenance arrangements have been arranged and agreed before any works commence on site that might otherwise be left unaccounted for.

12. Prior to the first occupation of the development, a demonstration (such as as-built drawings and/or photographic evidence) of the as-built surface water drainage scheme carried out by a suitably qualified person must be submitted to and approved by the Local Planning Authority to demonstrate that the Sustainable Drainage System has been constructed as per the agreed scheme.

Reason: The reason for this pre-occupation condition is to ensure the Sustainable Drainage System has been constructed as per the approved is designed to the technical standards.

Highways/parking

13. No other part of the development shall begin until the new means of access has been sited and laid out in accordance with the approved drawing and constructed in accordance with Buckinghamshire County Council's guide note "Commercial Vehicular Access Within Highway Limits" 2013.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the development.

14. Within one month of the new access being brought into use all other existing access points not incorporated in the development hereby permitted shall be stopped up by raising the existing dropped kerb or removing the existing bell mouth and reinstating the footway and highway boundary to the same line, level and detail as the adjoining footway and highway boundary.

Reason: To limit the number of access points along the site boundary for the safety and convenience of the highway user.

15. No other part of the development shall begin until visibility splays have been provided on both sides of the access between a point 2.4 metres along the centre line of the access measured from the edge of the carriageway and a point 43 metres along the edge of the carriageway measured from the intersection of the centre line of the access. The area contained within the splays shall be kept free of any obstruction exceeding 0.6 metres in height above the nearside channel level of the carriageway.

Reason: To provide adequate intervisibility between the access and the existing public highway for the safety and convenience of users of the highway and of the access.

16. The scheme for parking and manoeuvring indicated on the submitted plans shall be laid out prior to the initial occupation of the development hereby permitted and that area shall not thereafter be used for any other purpose or have over half of the spaces allocated to specific dwelling flats.

Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway.

17. The development hereby permitted shall not be occupied until the facilities for the storage of refuse bins and cycles have been provided in accordance with plan ref: 17/3454/14 (dated 18/04/18) unless otherwise agreed in writing.

Reason: To ensure a satisfactory appearance and in the interests of the amenities of the occupiers and adjoining residents.

Energy

18. Prior to occupation of the development hereby permitted a strategy for the provision of car charging points shall be submitted to the Local Planning Authority for approval. The development shall thereafter be constructed in accordance with the approved strategy. The charging units shall be maintained in full working order for a minimum period of 5 years.
Reason: To reduce the negative impact on the health of residents living within the Air Quality Management Area. Reduce air pollution. Promote more sustainable forms of fuel. Ensure that the site is prepared for the phasing out of petrol and diesel vehicles.
19. The development hereby permitted shall integrate and utilise high-efficiency alternative energy generation systems sufficient to deliver at least 15% of the total Target Fabric Energy Efficiency for the development. The dwellings hereby permitted shall not be occupied until 15% total Target Fabric Energy Efficiency is achieved. The TFEE and the % contribution made by high-efficiency alternative systems shall be calculated in accordance with Building Regulations Approved Documents L (2013, as amended 2016, or any update to this methodology in any future amendment of the Approved Documents) and be made available within 7 days upon request.
Reason: In the interests of sustainability, carbon reduction and the promotion of renewable technologies pursuant to Policy DM18 of the adopted Delivery and Site Allocations DPD and emerging policy DM33 of the New Local Plan.
20. No dwelling hereby permitted shall be occupied until the higher water efficiency standard set out in the appendix to Building Regulations Approved Document Part G (2015 or any update to this standard in any future amendment of the Approved Document) has been achieved.
Reason: This is an optional standard to be addressed at the Building Regulations stage. In the interests of water efficiency and to conform to policy DM18 of the adopted Delivery and Site Allocations DPD and emerging policy DM39 of the New Local Plan.

INFORMATIVE(S)

1. In accordance with paragraph 38 of the NPPF2 Wycombe District Council (WDC) approaches decision-taking in a positive and creative way by taking a proactive approach to development proposals, which are focused on solutions.

WDC works with the applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applications/agents of any issues that may arise in the processing of their application.

In this instance, the Local Planning Authority has:

- Updated the applicant/agent on a number of issues that arose in the processing of the application and where possible suggested solutions; and,
- Adhered to the requirements of the Planning & Sustainability Customer Charter.

Following amendments to the application it was considered by Planning Committee and determined without delay.

S106

2. The following matters are dealt with by way of a S106 agreement:
 - a. Provision of 1 Discount Market Value dwelling.

Ecology

3. The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981, with only a few exceptions, it is an offence for any person to intentionally:
- take, damage or destroy the nest of any wild birds while the nest is in use or being built,
 - take kill or injure any wild bird,
 - take or destroy the egg of any wild bird.
 - Birds nest between March and September and therefore removal of dense bushes, ivy or trees or parts of trees etc. during this period could lead to an offence under the Act.

The consent given by this notice does not override the protection afforded to these species and their habitat.